SOUTHERN DISTRICT OF NEW	/ YORK	
BOCA BAY GROUP II LLC,	X : : Plaintiff, :	24 Civ. 438 (LGS)
-against-	•	24 CIV. 436 (LUS)
TLM GROUP LLC,	:	<u>ORDER</u>
	Defendant. : X	

## LORNA G. SCHOFIELD, District Judge:

INTER OF ATEC DICTRICT COLUMN

WHEREAS, Defendant filed a Notice of Removal on January 19, 2024, and removed this action from state court pursuant to the Court's diversity jurisdiction;

WHEREAS, the federal courts are courts of limited jurisdiction, and "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States." 28 U.S.C. § 1332(a)(1);

WHEREAS, diversity jurisdiction requires that "all of the adverse parties in a suit . . . be completely diverse with regard to citizenship." *Handelsman v. Bedford Vill. Assocs. Ltd. P'ship*, 213 F.3d 48, 51 (2d Cir. 2000);<sup>1</sup>

WHEREAS, "the party invoking federal jurisdiction" bears the burden of "establish[ing] the existence of diversity jurisdiction." *Platinum-Montaur Life Scis.*, *LLC v. Navidea Biopharmaceuticals, Inc.*, 943 F.3d 613, 618 (2d Cir. 2019);

WHEREAS, a limited liability company ("LLC") generally takes the citizenship of each of its members for the purposes of diversity jurisdiction. *See Carter v. HealthPort Techs.*, *LLC*,

<sup>&</sup>lt;sup>1</sup> Unless otherwise indicated, in quoting cases, all internal quotation marks, alterations, emphases, footnotes and citations are omitted.

822 F.3d 47, 60 (2d Cir. 2016); Bayerische Landesbank, N.Y. Branch v. Aladdin Cap. Mgmt., LLC, 692 F.3d 42, 49 (2d Cir. 2012);

WHEREAS, complete diversity is not established where the notice of removal fails to

allege the citizenship of each member of a party LLC. See Platinum-Montaur Life Scis., 943

F.3d at 615;

WHEREAS, it is within the Court's discretion to *sua sponte* remand a case to state court

where the party seeking removal has "failed to allege complete diversity of citizenship." Id. at

618; Hines v. Azoth Inv. SPC Ltd., No. 21 Civ. 10309, 2022 WL 683996, at \*2-3 (S.D.N.Y. Mar.

8, 2022) (sua sponte remanding case to state court where notice of removal failed to establish

complete diversity);

WHEREAS, a district court may sua sponte remand a case for a procedural defect within

thirty days of the filing of the Notice of Removal. See Mitskovski v. Buffalo & Fort Erie Pub.

Bridge Auth., 435 F.3d 127, 131 (2d Cir. 2006);

WHEREAS, Defendant's Notice of Removal is procedurally defective. Defendant's

Notice of Removal fails to plead facts sufficient to establish the citizenship of each member of

Plaintiff LLC. It is hereby

**ORDERED** that this matter is **REMANDED** to state court.

The Clerk of Court is respectfully directed to close the case and to mail a certified copy

of this Order to the Supreme Court of the State of New York, New York County, pursuant to 28

U.S.C. § 1447(c).

Dated: January 23, 2024

New York, New York

UNITED STATES DISTRICT JUDGE

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